

ICI Americas Inc.

Legal
Department

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

February 10, 1983

Mr. Thomas C. Voltaggio
Chief
Compliance Branch
United States Environmental
Protection Agency
Region III
6th and Walnut Streets
Philadelphia, PA 19106

Dear Mr. Voltaggio:

I have your letter of January 28, 1983.

It is not possible to conduct an investigation of documents such as requested in your letter within the ten day period in which you requested our response.

Before undertaking any further steps regarding your request, we ask that you advise us whether you have made similar requests to other entities concerning the landfills or parties in question. If so, please identify those entities and parties; and advise whether there is any relevant litigation and the court term and number of any such suits.

Thank you for your consideration and expected cooperation.

Very truly yours,

Melford F. Tietze
Environmental Counsel

MFT:kad-44

EA
214

200593

Wilmington, Delaware 19897 Phone (302) 575-3000

Exhibit J

DEC 19 1984

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(Red)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Melford Tietze
ICI Americas
Atlas Point Plant
Murphy Road
Wilmington, DE 19897

Dear Mr. Tietze:

The United States Environmental Protection Agency ("EPA") is seeking information concerning a release, or threat of a release, of a hazardous substance into the environment. Pursuant to the authority of Section 3007(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6927(a) and Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9604(e), ICI Americas is requested to furnish all information of which it is aware, and documents in its possession, custody or control or in the possession, custody or control of any of its officers, employees or agents which concern, refer, or relate to any material which may contain hazardous substances as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14). In particular, Region III is interested in hazardous substances that were transported to, or stored or disposed of at the Army Creek Landfill, also known as the Llangollen Landfill and/or the Black Cat Landfill (hereinafter referred to as the Army Creek Landfill) and/or the Delaware Sand & Gravel Landfill also known as Delaware Sand & Gravel Company, Incorporated (hereinafter referred to as Delaware Sand & Gravel Landfill). The Army Creek Landfill is located about seven (7) miles south of Wilmington in New Castle County, Delaware just east of the intersection of United States Routes 13 and 40, and along the northwestern bank of the Army Creek. The Delaware Sand & Gravel Landfill lies immediately east of the Army Creek Landfill also in New Castle County, Delaware. The Army Creek Landfill operated between the years 1960 and 1966. The Delaware Sand & Gravel Landfill operated between the years 1968 and 1976.

All information and documents requested are due to the address listed below within ten (10) calendar days of receipt of this letter.

Your response should include, but not be limited to, information and documentation concerning:

1. The type and quantity of the substances sent to, or the type and quantity of the substances transferred to a transporter who disposed of substances at, the Army Creek Landfill and/or the Delaware Sand & Gravel Landfill.

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2. The date(s) such substances were sent to, or the date(s) such substances were transferred to a transporter who disposed of substances at, the Army Creek Landfill and/or the Delaware Sand & Gravel Landfill.

3. The state (i.e., liquid, solid, or gaseous) of the substances sent to, or the state (i.e., liquid, solid, or gaseous) of the substances transferred to a transporter who disposed of substances at, the Army Creek Landfill and/or the Delaware Sand & Gravel Landfill and the manner in which the substances were stored or disposed (i.e., drummed or uncontained; placed in lagoons, landfills, or piles).

4. Any correspondence between ICI Americas and any regulatory agencies regarding such substances.

5. Any correspondence between ICI Americas and operators of and/or any transporters who transported substances to the Army Creek Landfill and/or the Delaware Sand & Gravel Landfill.

Please include any documents that were maintained by ICI Americas of the transactions with the Army Creek Landfill and/or the Delaware Sand & Gravel Landfill including the date of the documents, the author of the documents, the current location of the documents and the current custodian, and all efforts that were taken to identify these documents.

In addition to the above information, if ICI Americas is privately insured against releases of hazardous wastes or substances as a result of the handling of such materials, please inform us of the existence of such insurance and provide us with copies of all insurance policies.

As used herein, the term "documents" means writings (handwritten, typed or otherwise produced or reproduced) and includes, but is not limited to, any invoices, checks, receipts, bills of lading, weight receipts, toll receipts, correspondence, offers, contracts, agreements, manifests, licenses, permits, bids, proposals, policies of insurance, logs, books of original entry, minutes of meetings, memoranda, notes, calendar or diary entries, agendas, bulletins, notices, announcements, charts, maps, photographs, drawings, manuals, brochures, reports of scientific study or investigation, schedules, price lists, telegrams, teletypes, phone-records, magnetic voice or video records, tapes, summaries, magnetic tapes, punch cards, recording discs, computer printouts, or other data compilations from which information can be obtained or translated.

You are entitled to assert a claim of business confidentiality covering any part or all of the submitted information, in the manner described in 40 C.F.R. Section 2.203(b). Information subject to a claim of business confidentiality will be made available to the public only in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart b. Unless such a business confidentiality claim is asserted at the time the requested information is submitted, EPA may make this information available to the public without further notice to you.

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Please send the required information to:

Susan Belski (3HW14)
CERCLA Enforcement Section
EPA III - Curtis Building
Sixth & Walnut Streets
Philadelphia, PA 19106

If you have any questions concerning this matter, please contact Kermit
Kader, Esquire, at (215) 597-0376 or Susan Belski, Environmental Scientist,
at (215) 597-6680.

Sincerely,

Stephen R. Wassersug, Director
Hazardous Waste Management Division

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P 587 091 856

RECEIPT FOR CERTIFIED MAIL

U.S. MAIL SERVICE
WASHINGTON, D.C.

ICL America

SENT BY	ICL America
TO	Ben M. Tietze, Esquire
ADDRESS	Atlas Point Plant
	Murphy Road
	Wilmington, DE 19897
DATE	
TIME	
PLACE	
POSTAGE	
FEES	
TOTAL	
PAID	
REMARKS	

U.S. MAIL SERVICE
WASHINGTON, D.C.

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MORGAN, LEWIS & BOCKIUS

WASHINGTON
NEW YORK
LOS ANGELES

COUNSELORS AT LAW
2000 ONE LOGAN SQUARE
PHILADELPHIA, PENNSYLVANIA 19103

TELEPHONE (215) 983-5000

CABLE ADDRESS: MORLEBOCK

TELEX: 83-1315

MIAMI
HARRISBURG
LONDON

DENIS V. BRENNAN
DIAL DIRECT (215) 983-5407

January 22, 1985

Susan Belski (3HW14)
CERCLA Enforcement Section
EPA III - Curtis Building
Sixth and Walnut Streets
Philadelphia, PA 19106

RE: Army Creek & Delaware Sand and Gravel

Dear Ms. Belski:

Stephen B. Wassersug, in his letter to ICI dated December 19, 1984, concerning the above landfills, asked that ICI respond to you.

In regard to the Army Creek landfill, ICI previously responded to an earlier inquiry. Since that time, ICI has been involved in litigation involving, among other things, personal injury claims allegedly arising from the Tybouts landfill in Delaware. In defending the claims against it, ICI may have obtained through discovery, formal and otherwise, information which may relate to one or both of these landfills, from the EPA and parties such as GM and Chrysler, which ICI believes were also recipients of earlier requests concerning one or both of these landfills. Some of the documents produced by parties other than the EPA were produced in accordance with a confidentiality agreement in order to resolve discovery disputes. Presumably the EPA has or will obtain those documents from those parties. In any event, even prescinding from the work product doctrine and the protection afforded to material obtained in anticipation of litigation, ICI could not provide the documents which are subject to a confidentiality agreement.

ICI makes this response although it believes that the EPA has not complied with the statutes cited as the authority for the request and without waiver of its right to object

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Exhibit L

MORGAN, LEWIS & BOCKIUS

Susan Helski

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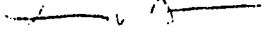
January 22, 1985

because of such non-compliance. Furthermore, ICI will not produce information, if any, which is protected by any privileges including the attorney-client privilege. In addition, it, as noted, will not produce any work product or information obtained in anticipation of litigation.

Although not necessarily of concern with regard to this request, ICI, as noted, has in the past been asked to provide similar information. Despite some knowledge of the statutes involved and at least some of the applicable regulations, ICI is not certain what constitutes a hazardous substance. For example, although it knows that certain substances which are listed in the Clean Water Act can be hazardous substances, it is not certain that such substances are hazardous if not found in water or in a particular quantity. For future use, would you please provide a list of hazardous substances and information concerning the circumstances under which they are considered to be hazardous including, but not limited to, the levels or quantities which must be reached before they are considered hazardous and information as to whether those substances otherwise hazardous are not considered hazardous if found in different media. For example, if a substance is listed under the Clean Water Act is found in the ground but not in ground water, would it nevertheless be considered a hazardous substance?

If you desire any further information, please advise.

Very truly yours,


Denis V. Brennan

/kmt

P.S. Because of a misunderstanding between the client and me, this response was delayed.

D.V.B.

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